

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

SALAHUDDIN, Syed Z. et al.

Application for Reissue of U.S. Patent
No.: 6,054,283 granted April 25, 2000

Filed: December 23, 1996

For: ANTIBODIES AGAINST HUMAN
HERPESVIRUS-6 (HHV-6) AND
METHOD OF USE

REISSUE DECLARATION UNDER 37
C.F.R. § 1.175(a)

Box Reissue

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

We, Syed Z. Salahuddin, Dharam V. Ablashi, Steven F. Josephs, Carl W. Saxinger,
Flossie Wong-Staal and Robert C. Gallo, declare as follows:

1. We are citizens and residents of the United States of America.
2. We have assigned the entire right, title, and interest in U.S. Patent No. 6,054,283 to the United States of America as represented by the Secretary of the Department of Health and Human Services.
3. We are the original inventors of the invention described and claimed in the above-identified United States Letters Patent and the claims added by the above referenced reissue application, for which invention we seek a reissue of the aforesaid Letters Patent.

4. We do not know and do not believe that the invention was ever known or used in the United States of America before our invention thereof.

5. We have reviewed and understand the contents of the attached specification and claims, including the new claims as presented in this application for reissue of the original Letters Patent.

6. We acknowledge the duty to disclose information of which we are aware and which is material to the examination of this application for reissue of the original Letters Patent in accordance with 37 C.F.R. § 1.56.

7. We believe the original patent to be partly inoperative in that the original patent failed to adequately claim priority under 35 U.S.C. § 120 to an earlier filed copending U.S. Patent application. The specification correctly states that the application from which U.S. Patent No. 6,054,283 issued is a divisional of USSN 08/392,674, filed February 22, 1995 which was a continuation of USSN 07/754,220, filed August 27, 1991, which was a continuation of USSN 07/255,712, filed October 11, 1988, which was a CIP of USSN 07/228,550, filed August 4, 1998, which was a CIP of USSN 06/901,602, filed August 29, 1986, which was a CIP of USSN 06/892,423, filed August 4, 1986. The specification incorrectly states that USSN 06/892,423 was a CIP of USSN 06/895,857, filed August 12, 1986, which was a CIP of USSN 06/895,463, filed August 11, 1986. USSN 06/892,423, USSN 06/895,857, and USSN 06/895,463 were in fact copending applications and not CIP's of each other.

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willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Full name of first inventor: Syed Z. Salahuddin

Inventor's signature: Syed Z. Salahuddin Date: _____

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: 3171 Breaker Dr.
Ventura, CA 93003

Full name of second inventor: Dharam V. Ablashi

Inventor's signature: _____ Date: _____

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: _____

Full name of third inventor: Steven F. Josephs

Inventor's signature: _____ Date: _____

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: _____

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Full name of first inventor: Syed Z. Salahuddin

Inventor's signature: _____ Date: _____

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: _____

Full name of second inventor: Dharam V. Ablashi

Inventor's signature: Dharam V. Ablashi Date: 2/2/02

Country of Citizenship: U.S.

Residence: U.S. 4117 Barnsley Lane
Olney, Maryland 20832

Post Office Address: _____

Full name of third inventor: Steven F. Josephs

Inventor's signature: _____ Date: _____

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Full name of first inventor: Syed Z. Salahuddin

Inventor's signature: _____ Date: _____

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: _____

Full name of second inventor: Dharam V. Ablashi

Inventor's signature: _____ Date: _____

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: _____

Full name of third inventor: Steven F. Josephs

Inventor's signature: Steven F. Josephs Date: 02-02-02

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: 12919 Brome Way San Diego, CA 92129

CALIFORNIA ALL-PURPOSE ACKN WLEDGMENT

State of California

County of

San Diego

SS.

On February 2, 2002 before me, Anne Felicia Manasan, Notary Public

Date

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

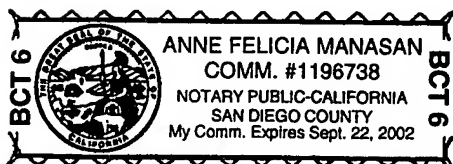
personally appeared Steven F. Josephs

Name(s) of Signer(s)

☐ personally known to me

☒ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Anne Felicia Manasan

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Application For Reissue of U.S. Patent No 6,054,283

Document Date: Jan 31, 2002

Number of Pages: (6)

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

☐ Individual

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Attorney-in-Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Full name of fourth inventor: Carl W. Saxinger

Inventor's signature: _____

Carl Saxinger

2/7/02
Date: _____

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: 6814 Renita Lane, Bethesda, Maryland 20817

Full name of fifth inventor: Flossie Wong-Staal

Inventor's signature: _____

Date: _____

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: _____

Full name of sixth inventor: Robert C. Gallo

Inventor's signature: _____

Date: _____

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: _____

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Residence: U.S.

Post Office Address: _____

Full name of fifth inventor: Flossie Wong-Staal

Inventor's signature: Flossie Wong-Staal Date: _____

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: 14090 Caminito Vistana, San Diego,
CA 92130

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Residence: U.S.

Post Office Address: _____

Full name of sixth inventor: Robert C. Gallo

Inventor's signature: R. Gallo Date: 2/1/2002

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: 9100 Aldershot Drive
Bethesda, MD 20817

REISSUE APPLICATION DECLARATION BY THE ASSIGNEE

Docket Number (optional)
015280-212210US

I hereby declare that:

My residence and mailing address and citizenship are stated below next to my name.

I am authorized to act on behalf of the following assignee: The United States Government, as represented by the Secretary of the Department of Health and Human Services

and the title of my position with said assignee is: Division Director for Technology Development

The entire title to the patent identified below is vested in said assignee.

Name of Patentee(s):

Syed Zaki Salahuddin, Dharam V. Ablashi, Steven F. Josephs, Carol W. Saxinger, Flossie Wong-Staal, Robert C. Gallo

Patent Number

6,054,283

Date of Patent Issued

April 25, 2000

Title of Invention

ANTIBODIES AGAINST HUMAN HERPESVIRUS-6(HHV-6) AND METHOD OF USE

I believe said patentee(s) to be the original, first and sole/joint inventor(s) of the subject matter which is described and claimed in said patent, for which a reissue patent is sought on the invention entitled ANTIBODIES AGAINST HUMAN HERPESVIRUS-6(HHV-6) AND METHOD OF USE.

the specification of which

☒ is attached hereto.

☐ was filed on _____ as reissue application number _____ / _____

and was amended on _____

(If applicable)

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

☐ by reason of a defective specification or drawing.

☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.

☐ by reason of other errors.

At least one error upon which reissue is based is described as follows: please see reissue declaration under 37 C.F.R. § 1.175(a).

[Attach additional sheets, if needed.]

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant.

[Page 1 of 3]

Burden Hour Statement: This form is estimated to take 0.5 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

(REISSUE APPLICATION DECLARATION BY THE ASSIGNEE)Docket Number (Optional)
015280-212210US

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith.

Name(s)

Registration Number

Correspondence Address: Direct all communications about the application to:

☒ Customer Number

Type Customer Number Here

20350

20350

OR

☐ Firm or
Individual
Name

Address

Address

City

State

Zip

Country

Telephone

Fax

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Full name of person signing (given name, family name)

JACK SPIEGEL

Signature

Jack Spiegel

Date

2/20/2002

Address of Assignee

National Institutes of Health, Office of Technology Transfer, 6011 executive Boulevard, Suite 325, Rockville, Maryland 20852-3804

Patentee

Syed Zaki Salahuddin

Citizenship

Residence/Mailing Address

Patentee

Dharam V. Ablashi

Citizenship

Residence/Mailing Address

☒ Additional Patentees are named on separately numbered sheets attached hereto.

Patenee:

Syed Zaki Salahuddin, a citizen of The United States, residing at
3171 Breaker Drive
Ventura, CA 93003

Dharam V. Ablashi, a citizen of The United States, residing at
4117 Barnsley Lane
Olney, MD 20832

Steven F. Josephs, a citizen of The United States, residing at
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SF 1316442 v1

Full name of fourth inventor: Carl W. Saxinger

Inventor's signature: _____ Date: _____

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: _____

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Inventor's signature: _____ Date: _____

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Inventor's signature: _____ Date:

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Post Office Address: _____

Full name of second inventor: Dharam V. Ablashi

Inventor's signature: _____ Date:

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: _____

Full name of third inventor: Steven F. Josephs

Inventor's signature: _____ Date:

Country of Citizenship: U.S.

Residence: U.S.

Post Office Address: _____

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

SALAHUDDIN, Syed Z. et al.

Application for Reissue of U.S. Patent
No.: 6,054,283 granted April 25, 2000

Filed: December 23, 1996

For: ANTIBODIES AGAINST HUMAN
HERPESVIRUS-6 (HHV-6) AND
METHOD OF USE

REISSUE DECLARATION UNDER 37
C.F.R. § 1.175(a)

Box Reissue

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

We, Syed Z. Salahuddin, Dharam V. Ablashi, Steven F. Josephs, Carl W. Saxinger,
Flossie Wong-Staal and Robert C. Gallo, declare as follows:

1. We are citizens and residents of the United States of America.
2. We have assigned the entire right, title, and interest in U.S. Patent No. 6,054,283 to the United States of America as represented by the Secretary of the Department of Health and Human Services.
3. We are the original inventors of the invention described and claimed in the above-identified United States Letters Patent and the claims added by the above referenced reissue application, for which invention we seek a reissue of the aforesaid Letters Patent.

4. We do not know and do not believe that the invention was ever known or used in the United States of America before our invention thereof.

5. We have reviewed and understand the contents of the attached specification and claims, including the new claims as presented in this application for reissue of the original Letters Patent.

6. We acknowledge the duty to disclose information of which we are aware and which is material to the examination of this application for reissue of the original Letters Patent in accordance with 37 C.F.R. § 1.56.

7. We believe the original patent to be partly inoperative in that the original patent failed to adequately claim priority under 35 U.S.C. § 120 to an earlier filed copending U.S. Patent application. The specification correctly states that the application from which U.S. Patent No. 6,054,283 issued is a divisional of USSN 08/392,674, filed February 22, 1995 which was a continuation of USSN 07/754,220, filed August 27, 1991, which was a continuation of USSN 07/255,712, filed October 11, 1988, which was a CIP of USSN 07/228,550, filed August 4, 1998, which was a CIP of USSN 06/901,602, filed August 29, 1986, which was a CIP of USSN 06/892,423, filed August 4, 1986. The specification incorrectly states that USSN 06/892,423 was a CIP of USSN 06/895,857, filed August 12, 1986, which was a CIP of USSN 06/895,463, filed August 11, 1986. USSN 06/892,423, USSN 06/895,857, and USSN 06/895,463 were in fact copending applications and not CIP's of each other.

8. We believe that the failure to adequately claim priority arose from the prolonged and complicated prosecution of this series of patent applications.

These errors arose without any deceptive intention on our part. The errors were discovered after the patent issued as part of a review by other patent counsel.

9. We believe the original patent to be partly inoperative in that the original patent claims less than we have a right to claim in the patent. Our invention is generally directed to methods of detecting human B lymphotropic virus (HBLV) infection. Claims 2 and 3 of the issued patent recite two distinct methods by which HBLV infection can be detected. Claim 2 describes a method of detecting HBLV infection by contacting an antibody that specifically binds to an antigenic molecule from HBLV with a biological sample and detecting the antibody-antigen complex. Claim 3 describes a method whereby the antibody-antigen complex is detected by a western blot.

The methods recited in claims 2 and 3 are not the only methods of detecting HBLV infection. For example, HBLV infection can be detected by immunoassays that detect antibodies that specifically bind to HBLV as described at column 10, lines 59-67 and column 13, lines 3-6 of U.S. Patent No. 6,054,283.

10. We believe that the unduly constrained literal scope of the present claims arose from insufficient communication between us and patent counsel as a result of which the patent counsel lacked full appreciation of the scope and function of the invention. These errors in claiming less than we had a right to claim arose without any deceptive intention on our part. The errors were discovered after the patent issued as part of a review by other patent counsel.

11. We hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such

willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Full name of first inventor: Syed Z. Salahuddin

Inventor's signature: _____ Date: _____

Country of Citizenship: U.S.

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willful false statements may jeopardize the validity of the application or any patent issuing thereon.

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